

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

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CHRISTY RANAY FIELDS,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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No. 02-311V  
Special Master Christian J. Moran

Filed: May 8, 2008

Motion for reconsideration of  
interlocutory ruling granted

**ORDER**\*

On April 9, 2008, this court made a ruling finding that Ms. Fields was entitled to compensation because she had established, by a preponderance of the evidence, the three factors identified in Althen v. Sec'y of Health and Human Servs., 418 F.3d 1274, 1278 (Fed. Cir. 2005). On April 21, 2008, respondent filed a motion for reconsideration of that ruling. As explained below, respondent's motion for reconsideration is GRANTED. The April 9, 2008 ruling is vacated and withdrawn from publication.<sup>1</sup>

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\* Because this published order contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, the person submitting the information has 14 days to identify and to move to delete such information before the document's disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

<sup>1</sup> The decision being vacated appears at 2008 WL 1883328.

Before explaining why reconsideration is warranted, a point of procedure must be clarified. Respondent filed his motion for reconsideration pursuant to Vaccine Rule 10(c). That rule does not set forth the procedure for filing a motion for reconsideration of a ruling.

Vaccine Rule 10(c) states, in pertinent part, that “Within 21 days after the issuance of the special master’s decision, if neither a judgment nor a motion for review of the special master’s decision has yet been filed, either party may file a motion for reconsideration of the special master’s decision.” This rule, therefore, sets forth the circumstances under which a party may seek reconsideration of a special master’s decision.

Within the Vaccine Program, the word “decision” carries a special meaning. See Currie v. Sec’y of Health & Human Servs., Fed. Cl. 02-838V, 2003 WL 23218074 (Spec. Mstr. Nov. 26, 2003) (explaining that a “judgment” follows a “decision.”) The specific meaning is demonstrated in the first subparagraph of Vaccine Rule 10. It begins: “A special master’s decision pursuant to 42 U.S.C. § 300aa-12(d)(3)(A) determines whether or not an award of compensation is made, and, if so, the amount thereof.” Vaccine Rule 10(a).

The April 9, 2008 ruling is not a “decision.” Although it determined that Ms. Fields is entitled to compensation, it did not set the amount of compensation. Therefore, it is not a “decision” that either can be the immediate subject of a motion for review or the basis for a judgment. Consequently, a motion pursuant to Vaccine Rule 10(c) is not the correct procedural vehicle.

Although Vaccine Rule 10(c) is the only rule in the Vaccine Rule that authorizes special masters to reconsider their decisions, a specific rule to authorize reconsideration of interlocutory rulings is not necessary. Special masters, like other tribunals, possess the inherent authority to reconsider their rulings. One judge of the Court of Federal Claims reasoned “an adjudicator of facts, including a special master, must have the power to reconsider an opinion, certainly prior to the entry of judgment, in the event that an adjudicator believes a legal or factual error has been made.” Mass v. Sec’y of Health & Human Servs., 31 Fed. Cl. 523, 529 n.9 (1994). The Federal Circuit recognizes that the International Trade Commission has “the inherent authority to reconsider its determinations.” Ad Hoc Shrimp Trade Committee v. United States, 515 F.3d 1372, 1383 n.8 (Fed. Cir. 2008). Similarly, circuit courts of appeals have stated that district courts possess the inherent authority to reconsider their interlocutory rulings. E.g., City of Los Angeles v. Santa Monica Baykeeper, 254 F.3d 882, 885-87 (9<sup>th</sup> Cir. 2001) (stating, on page 887, that the “district court’s power to rescind, reconsider, or modify an interlocutory order is derived from the common law, not from the Federal Rules of Civil Procedure”); Bank of Waunakee v. Rochester Cheese Sales, Inc., 906 F.2d 1185, 1191 (7<sup>th</sup> Cir. 1990) (explaining that a motion for reconsideration is appropriate when, among other factors, the court “has patently misunderstood a party”).

Because special masters possess the inherent authority to reconsider their interlocutory rulings, respondent’s motion for reconsideration is appropriate in substance. Respondent argues

that in the April 9, 2008 ruling, this special master erred as a matter of law by not considering exhibit C. Exhibit C is a statement from respondent's expert, Dr. Kaplan, addressing articles submitted by Ms. Fields after the hearing in this matter.

Respondent's argument is correct. The undersigned erred by not considering exhibit C. See 42 U.S.C. § 300aa-13(a) (requiring the special master to evaluate "the record as a whole"). As such, respondent's motion meets the standards set forth in Bank of Waunakee because respondent's argument, including exhibit C, was not understood properly.

Consequently, the motion for reconsideration is GRANTED. The April 9, 2008 ruling is WITHDRAWN.

During a status conference on May 7, 2008, Ms. Fields did not object to granting the reconsideration. Ms. Fields, however, argued that, for the reasons set forth in pages 15-19 of her post hearing brief, exhibit C should not change the result that she is entitled to compensation. Ms. Fields was extended an opportunity to file additional argument, but chose to rest on what she submitted previously. Therefore, the record is complete.

An amended ruling or decision will issue in due course.

IT IS SO ORDERED.

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Christian J. Moran  
Special Master